

EXHIBIT A

ATTORNEY DOCKET NO. 07030.0004U2
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
)
 Borberg, et al.) Art Unit: 3761
)
 Application No. 10/649,968) Examiner: Wiest, Philip R
)
 Filing Date: August 26, 2003) Confirmation No. 7077
)
 For: METHOD FOR TREATMENT DISEASES)
 ASSOCIATED WITH A)
 DETERIORATION OF THE)
 MACROCIRCULATION,)
 MICRO CIRCULATION, AND ORGAN)
 PERFUSION)

DECLARATION UNDER 37 C.F.R. § 1.132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer Number 23859

Sir:

I, Helmut Borberg, hereby declare that:

1. I am Professor of Medicine at the University of Koeln, Germany, and hold a M.D. in Medicine from the University of Muenster Germany and an honourable academic degree (doctor honoris causa) in Medicine from the University of Budapest, Hungary. I was trained in Immunohaematology at the New York University Medical School, Department of Immunology and subsequently in Tumorimmunology at the Sloan Kettering Institute, Department of Immunology, Cornell University Division, New York. Heading the Division of Hemapheresis and Tumorimmunology and acting as the Director of the German Hemapheresis Center I have over over 47 years experience in the field of Apheresis with an emphasis on apheresis

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technologies and over 47 years years experience in the study of Internal Medicine and Transfusion Medicine.. This includes specific experience in the development of cell separation techniques, blood transfusion and apheresis treatments A partial curriculum vitae is attached to this declaration as an exhibit.

2. I have reviewed the specification of the above-identified application.
3. I have reviewed the Office Action mailed October 22, 2008 in connection with the above-identified application and the following references cited in that Office Action:
 - a) Georgadze et al (*Vestn Khir Im I I Grek* 142(3):20-24. 1989), cited as allegedly disclosing plasmapheresis may be used for the treatment of ischemia in the lower extremities of diabetics;
 - b) U.S. Patent 4,350,156 by Malchesky et al, cited as allegedly disclosing plasmafiltration of blood for the removal of high molecular weight protein; and
 - c) U.S. Patent 5,152,979 by Hunter, cited as allegedly disclosing that ischemia causes increased viscosity of blood and recognizes that increased whole blood viscosity is capable of causing serious circulatory disturbances;
4. I understand that claims 1 and 2 of the above referenced application have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Georgadze et al, in view of Malchesky et al, and further in view of Hunter. Specifically, I understand that the rejection is based in part on the contention that it would have allegedly been obvious to one at the time the present application was filed to modify the method of Georgadze et al. to specifically remove high molecular weight protein, such as lipoprotein cholesterol, as allegedly taught by Malchesky et al. since both allegedly teach removal of protein from the blood to achieve a therapeutic result, such as returning blood to its normal viscosity, and Hunter allegedly teaches that ischemia causes

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impaired circulation because of blood hyperviscosity. I present in this declaration evidence to the contrary. For example, the evidence indicates that:

- a) at the time the application was filed, the skilled artisan reading Georgadze et al., Malchesky et al. and Hunter would not have been motivated to remove high molecular weight proteins from the blood to treat diabetic ischemia;
- b) even if attempted, there would have been no reasonable expectation of success that removal of high molecular weight protein from the blood would have been effective at treating diabetic ischemia; and
- c) the scientific community has recognized the success of the claimed approach since the publication by the inventor.

5. I declare that neither Georgadze nor Malchesky nor Hunter have presented specific data or evidence on the research of hemorheology to explain the clinical efficacy of the healing of diabetes feet applying extracorporeal hemorheotherapy (rheopheresis, rheohemapheresis).

6. I declare that that the same treatment technology was applied and accepted as US patents for the treatment of ophthalmological diseases and small vessel disease and other diseases.

I declare that all statements made herein of my own knowledge and belief are true and that all statements made on information and belief are believed to be true, and further, that the statements are made with the knowledge that willful false statements are punishable by fine or

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imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: April 18th, 2008



Helmut Borberg, MD, Professor of Medicine

CURRICULUM VITAE

PROF.Dr.med.Dr.med.h.c. HELMUT BORBERG UNIVERSITY OF KÖLN, GERMANY

BIRTHDAY	Mai 6th, 1934
BIRTHPLACE	Lippstadt (Westphalia), Germany
MARITAL STATUS	Married March 3rd, 1976
CHILDREN	Three children
SCHOOL TRAINING	Grammar school and German Gymnasium until 1955
PROFESSIONAL TRAINING	Medical schools of the universities of Marburg, München and Münster
GRADUATION (PROMOTION)	M.D. (Dr. med.), University of Münster 1961
RESEARCH TRAINING	Electron microscopy, Department of Pathology, University of Münster and Department of Dermatology, University of Freiburg, 1964
	Immunohaematology 1965 - 1966 New York University Medical School, Division of Haematology (Head: P.A.Miescher, MD, Prof.of Medicine)
	Tumorimmunology 1966 - 1969 Sloan-Kettering Institute for Cancer Research, Division of Tumorimmunology, (Head: L.J.Old, MD, PhD, Prof.of Immunology)
CLINICAL TRAINING	Basic training at different hospitals and universities in Germany, 1961 - 1965
	Internal medicine, University of Köln 1969 - 1975
	Haematology - Oncology 1975 - 1982
HABILITATION (2 nd Thesis)	June 16th, 1982
PROFESSORSHIP	November 24th, 1988

POSITIONS

UNIVERSITY OF KÖLN 1969 - 1999
Associate Professor of Medicine
Head, Haemapheresis Unit, Department
of Internal Medicine
Head, Tumorimmunology, Department
of Internal Medicine
1999 Retirement

PRESENT Professor of Medicine (em.), University of
Köln Germany
Director, German Haemapheresis Centre
Köln, Germany

HONORARY 1987 Congress President, Annual Congress
of the European Society for Haemapheresis,
President, European Society for Haemapheresis, 1987 - 1989
Head, Board of the first Apheresis Commission
of the German Society for Blood Transfusion 1988
Treasurer, European Society for Haemapheresis, since 1997

AWARDS

Ludwig Heilmeyer Award
(German Society for the Advancement of
Internal Medicine)

Honorary Graduation University of Budapest, Hungary (Dr. med. h. c.)

Cobe Award (German Society of Transfusion
Medicine and Immunohaematology)

ESFH Senior Investigator Award (European
Society for Haemapheresis)

SCIENTIFIC PUBLICATIONS

Approximately 180 publications on investigational topics in tumourimmunology, internal medicine, haematology and haemapheresis

MEMBERSHIPS

German Society for Internal Medicine
German Society for Blood Transfusion and Immunohaematology
German Cancer Society
German Society for Haematology and Oncology
German Society for Immunology
European Society for Haemapheresis
International Society of Blood Transfusion
German Society of Rheology

(Past) Editorial and Advisory Board Memberships

Journal of Transfusion Medicine and Hemotherapy
Journal of Transfusion Science and Apheresis Therapy
Consultant, Societa d'Hemaferesi Italiano